

UNITED STATES BANKRUPTCY COURT
DISTRICT OF RHODE ISLAND

IN RE:

Christopher B Pemental

CitiMortgage, Inc.,

VS.

Christopher B Pemental

CHAPTER 7
CASE NO. 07-11093-ANV

MOTION FOR RELIEF FROM STAY AND MEMORANDUM IN SUPPORT THEREOF

To the Honorable Arthur N. Votolato:

CitiMortgage, Inc., your moving party in the within Motion, respectfully represents:

1. The movant has a mailing address of 1000 Technology Drive, MS 314, O'Fallon, MO 63368.
2. The debtor, Christopher B Pemental, has a mailing address of P.O. Box 621, Warren, RI 02885.
3. On June 18, 2007, the debtor filed a petition under Chapter 7 of the United States Bankruptcy Code in the United States Bankruptcy Court for the District of Rhode Island.
4. The movant is the holder of a first mortgage on real estate in the original amount of \$228,000.00 given by Christopher B. Pemental to Mortgage Electronic Registration Systems, Inc. on or about May 29, 2003. Said mortgage is recorded with the Records of Land Evidence in the City of Bristol at Book 1005, Page 372 and covers the premises located at 75 Charles Street, Bristol, RI 02809.
5. Said mortgage secures a note given by Christopher B. Pemental to SIB Mortgage Corporation in the original amount of \$228,000.00.
6. As of July 16, 2007, approximately \$231,714.63 in principal, interest, late fees and other

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charges was due with regard to CitiMortgage, Inc.'s note and mortgage. Additionally, reasonable attorney's fees and costs have accrued as a result of this motion.

7. There are the following encumbrances on the property:

<u>Name of Creditor</u>	<u>Type of Lien</u>	<u>Amount Owed</u>
CitiMortgage	First Mortgage	\$231,714.63
Wilshire Credit Corporation	Second Mortgage	\$ 42,089.56
Total Secured Encumbrances:		\$273,804.19

8. According to the debtor's schedules, the fair market value of the subject property is \$315,000.00.

9. The note and mortgage are in default for the January 1, 2007 payment and all payments thereafter, plus reasonable attorney's fees and costs and other charges incurred by the movant.

10. The movant seeks relief from stay as a secured creditor to enforce its rights under its loan documents and applicable law. In support thereof, the movant states that it is entitled to relief:

I. Pursuant to 11 U.S.C. 362 (d)(1) for cause on the basis that the debtor is in default on said contractual obligations, the primary purpose of a Chapter 7 proceeding is to liquidate the assets of the debtor, there is no equity and the trustee has no motivation to liquidate the subject property; and

II. Pursuant to 11 U.S.C. 362 (d)(2) on the basis that there is no equity in the subject property and, there being no reorganization in prospect, the property is not necessary for effective reorganization.

WHEREFORE, the movant prays that it, and its successors and/or assigns, be granted relief from the automatic stay for the purpose of: (i) exercising its rights under its agreements with the debtor and under applicable law, including, without limitation, taking possession of the mortgaged premises and/or foreclosing or accepting a deed in lieu of foreclosure of its

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mortgage on said premises, and bringing such actions, including, without limitation, eviction proceedings, as are permissible by law; (ii) the Court waive the provisions of F.R.B.P. 4001 (a)(3); and (iii) the Court order such other and further relief as may be just and proper.

Respectfully submitted,

CitiMortgage, Inc.,
By its Attorney

/s/ Andrew S. Harmon

Andrew S. Harmon, Esquire
RI #5699
HARMON LAW OFFICES, P.C.
P.O. Box 610389
Newton Highlands, MA 02461-0389
617-558-0500

Dated: July 17, 2007

Within ten (10) days after service as evidenced by the certification and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Bankruptcy Court Clerk's Office, 380 Westminster Mall, 6th Floor, Providence, RI 02903, (401) 528-4477. If no objection or other response is timely filed within the time allowed herein, the paper will be deemed unopposed and will be granted unless: (1) the requested relief is forbidden by law; (2) the requested relief is against public policy; or (3) in the opinion of the Court, the interest of justice requires otherwise.

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CERTIFICATE OF SERVICE

I, Andrew S. Harmon, Esquire, state that on July 17, 2007, I electronically filed the foregoing Motion for Relief from Stay and Proposed Order with the United States Bankruptcy Court for the District of Rhode Island using the CM/ECF System. I served the foregoing document on the following CM/ECF participants:

Leonard DePasquale, Esquire
Lisa A Geremia, Chapter 7 Trustee
Matthew J. McGowan, Esquire for Debtor

I certify that I have mailed by first class mail, postage prepaid the documents electronically filed with the Court on the following non CM/ECF participants:

/s/ Andrew S. Harmon

Andrew S. Harmon, Esquire
RI# 5699

Christopher B Pemental
P.O. Box 621
Warren, RI 02885

Wilshire Credit Corporation
P.O.Box 7195
Pasadena, CA 91109

ASH/NLK/200707-0361/Pemental, Christopher